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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/433,257	11/04/1999	YEVGENIY EUGENE SHTEYN	PHA-23.782	2314

7590 10/20/2003
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EXAMINER

LIN, WEN TAI

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 10/20/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/433,257

Applicant(s)

SHTEYN, YEVGENIY EUGENE

Examiner

Wen-Tai Lin

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6 and 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6 and 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 2-6 and 12-22 are presented for examination.
2. The prosecution of this application is re-opened because Giradot is not qualified as prior art, as correctly pointed out by Applicant in the recent appeal brief. The finality of the previous office action is hereby withdrawn in view of the new ground of rejection set forth below.
3. The text of those sections of Title 35, USC code not included in this action can be found in the prior Office Action.

Claim Rejections - 35 USC § 102

4. Claims 4-6, 14, 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cohen [U.S. Pat. No. 5751968].
5. Cohen was cited in the previous office action.
6. As to claim 14, Cohen taught the invention as claimed including: a method of, at a client device, forming a media presentation from multiple related files, including a control information file [54, Fig.5; col.6, lines 26-40], stored on one or more server computers within a computer network, the method comprising:

Art Unit: 2154

- downloading the control information file to the client device [56, Fig.5];
- the client device parsing the control information file [58, Fig.5; col.6, lines 26-40; i.e., the interactive display application program must parse the connection file in order to obtain the reference for segment file and its associated status];
and
- based on parsing of the control information file, the client device:
- retrieving a first file and using contents of the first file to begin a media presentation [60, Fig.5; col.6, lines 41-44];
- concurrent with the media presentation, retrieving a next file; and
- and using content of the next file to continue the media presentation [64, Fig.5; col.6, lines 44-54].

7. As to claims 4-5, Cohen further taught that the media presentation comprises an audio presentation or a video presentation [col.1, lines 49-54].

8. As to claim 6, Cohen further taught that partitioning of media presentation information between the multiple related files is described within the control information file using tags corresponding to respective files [Fig.3; col.5, lines 54-62; col.6, lines 35-50; i.e., each data file is tagged with an ID for the purpose of distinguishing one from the other in a streaming sequence].

9. As to claims 17 and 20, since the features of these claims can also be found in claims 14, they are rejected for the same reasons set forth in the rejection of claims 14 above.

Claim Rejections - 35 USC § 103

10. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen [U.S. Pat. No. 5751968], as applied to claims 4-6, 14, 17 and 20 above, further in view of Lin et al.(hereafter "Lin")[U.S. Pat. No. 6405256].

11. As to claim 2, Cohen did not teach that partitioning of media presentation information between the multiple related files is determined by information about the client. Specifically, Cohen did not teach partitioning the data to be transferred to the client based on the buffering/display/processing capability of the client (i.e., media information such as video/audio data is known to be large in size and a client's device may not be able to handle a large chunk of data during a fixed interval of time).

However, Lin teaches a data streaming method/system wherein partitioning of streamed data is based on the buffering capability of the client device [Lin: col.6, lines 47-50]. It would have been obvious to one of ordinary skill in the art at the time the invention was made that Cohen's data file size should be a factor of the client's buffering and display capability because this criterion makes sure that data streaming in Cohen's media presentation can be achieved without overflowing the client's buffering capacity [col.5, lines 39-53].

Art Unit: 2154

12. As to claim 3, Cohen does not specifically teach that partitioning of media presentation information between the multiple related files is determined by information about the computer network.

However, Lin teaches a network comprising a plurality of caching servers, each with expandable buffer for storing additional segments of streamed data for absorbing network congestion [Abstract]. Since the caching servers and the network congestion are part of the network information, it is obvious that the data segmentation in Cohen's network, which obviously comprises a plurality of communication nodes, should also be based on the network's buffering capability in each intermediate network node, because by doing so one would be able to anticipate Cohen system's tolerance against traffic fluctuation.

13. Claims 12-13, 15-16, 18-19 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen [U.S. Pat. No. 5751968], as applied to claims 2-6, 14, 17 and 20 above, further in view of Bayeh et al.(hereafter "Bayeh") [U.S. Pat. No. 6012098].

14. As to claim 15, Cohen did not specifically teach that the control information file is an XML file.

However, Bayeh taught that, for streaming purpose, the control flow of multimedia data can be coded in XML format [Abstract; Section 1, paragraphs 1 and 2], which requires a parser and interpreter for implementing the data streaming. Since

Art Unit: 2154

Cohen's connection file (i.e., the control information file) is a web page (which is normally presented in HTML format) downloaded from an HTTP server [col.6, lines 26-31] and it is well known that XML is an extension of the conventional hypertext file, it would have been obvious to one of ordinary skill in the art that Cohen's connection file could have been written as an XML file, because XML file is more flexible in defining control/information tags].

15. As to claim 16, Cohen in view of Bayeh further taught that the XML file identifies multiple alternative files corresponding to a given segment of the media presentation, further comprising selecting and retrieving one of the multiple alternative files [Cohen: col.6, line 63 - col.7, line 5].

16. As to claims 12 and 18-19, since the features of these claims can also be found in claims 14-17, they are rejected for the same reasons set forth in the rejection of claims 14-17 above.

17. As to claim 13, Cohen in view of Bayeh further taught that the means for parsing comprises an XML parser

18. and the means for retrieving and using comprises an XML interpreter [i.e., by default Girardot's browser must be able to parse and interpret the XML file, otherwise the content of the XML file would remain unknown].

Art Unit: 2154

19. As to claims 21-22, since the features of these claims can also be found in claims 14-18 and 20, they are rejected for the same reasons set forth in the rejection of claims 14-18 and 20 above.

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Logan et al. [U.S. Pat. No. 6199076]; and

Borman et al. [U.S. Pat. No. 5890172].

21. Applicant's arguments with respect to claims 2-6 and 12-22 have been considered but are moot in view of the new ground(s) of rejection (see paragraph #6 of this office action).

22. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 days from the mail date of this letter. Failure to respond within the period for response will result in ABANDONMENT of the application (see 35 U.S.C. 133, M.P.E.P. 710.02, 710.02(b)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (703)305-4875. The examiner can normally be reached on Monday-Friday(8:00-5:00).

Art Unit: 2154

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (703)305-9678. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)746-7239 for official communications;

(703)746-7238 for after final communications; and

(703)746-5516 for status inquires draft communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Wen-Tai Lin

October 9, 2003

Wen-Tai Lin
10/9/03